

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

KALVIN THOMAS,

Defendant.

8:10-cr-00132-LSC-FG3

ORDER

This matter is before the court on the defendant's unopposed motion to continue trial (#68). Based on defense counsel's professional representation that the Assistant U.S. Attorney's supervising attorney is unavailable to complete plea negotiations prior to the November 2, 2010 trial setting, the court finds that the motion should be granted. Although the defendant did file a speedy trial waiver last June in conjunction with another transaction, he is required to file a current affidavit or declaration in support of his motion to continue trial. See NECrimR 12.1(a).

IT IS ORDERED that the motion to continue trial is granted, as follows:

1. The jury trial now set for November 2, 2010 is continued to **November 16, 2010**.
2. In accordance with 18 U.S.C. § 3161(h)(7)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **November 2, 2010 and November 16, 2010**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. Failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).
3. Defendant shall file an affidavit or declaration regarding speedy trial, in compliance with NECrimR 12.1(a), no later than **November 4, 2010**.

DATED October 29, 2010.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge